

## REMARKS

Claims 1, 3-8, 10-24, 26-29, 31-46, 99 and 100 are pending in this application. Claims 2 and 9 have been canceled. Claims 1 and 39 have been amended to specify that the members of the set oligonucleotides are annealed “with one another.” Support for this amendment may be found in the specification at page 4, lines 26-28. Claims 26-29 have been amended to depend from claim 1. Claims 8, 17 and 39 have also been amended to correct typographical errors.

The specification has been amended to capitalize trademarks and remove hyperlinks and/or other forms of browser-executable code. No new matter has been added.

### *Declaration*

The Examiner has stated that a new declaration is required because one inventor signed but did not date the declaration. Applicants submit that the Office does not require a new declaration where the date of execution has been omitted. MPEP 602.05. Accordingly, Applicants request a statement from the Examiner that the declaration is not defective and that a new declaration is not required.

### *Information Disclosure Statement*

Applicants are submitting an Information Disclosure Statement with this response properly citing reference C23 of the IDS filed on 3/17/03 (Zhang, Ching, “A Genetic Algorithm for Molecular Sequence Comparison,” Proceedings of the International Conference on the Systems, Man and Cybernetics, February 10, 1994). Applicants request that the Examiner consider this reference.

### *Specification*

The Examiner has objected to the specification as containing trademarks that are not capitalized, for example, GENBANK, on page 36. Applicants have amended the specification to capitalize trademarks in paragraphs beginning on pages 9, 10, 36, 49, 75, 76, 78 and 80. Because the trademarks are capitalized and accompanied by generic terminology, Applicants request that the objection be withdrawn.

The Examiner has also objected to the specification for containing an embedded hyperlink or other browser executable code on page 9 and other pages. Hyperlinks and browser executable code include “http://” in front of a URL address and the symbols “< >” surrounding URLs. MPEP 608.01. Applicants have amended the specification to delete all instances of

“http://” and the symbols “<” surrounding a URL. Thus, the specification no longer contains hyperlinks or other browser executable code. Applicants believe that this amendment overcomes the objection.

#### *Rejections Under 35 USC § 112*

Claims 1-24, 35-29, 31-46, 99 and 100 have been rejected under 35 USC § 112, second paragraph as allegedly being indefinite. Specifically, the Examiner contends that it is unclear from the limitation “annealing the set of oligonucleotides” in claims 1 and 39 whether the set of oligonucleotides are annealed to their parental strings or among themselves. As discussed above, Applicants have amended claims 1 and 39 to specify that “members of the set of oligonucleotides” are annealed “with one another.” Applicants believes this amendment overcomes the rejection of claims 1 and 39, as well as of dependent claims 3-8, 10-24, 25-29, 31-38, 40-46, 99 and 100. Claims 2 and 9 have been canceled, obviating the rejection with respect to these claims.

Claim 9 has been rejected for containing the term “low sequence similarity”. To expedite prosecution, Applicants have canceled the claim, obviating the rejection.

Claims 26-29 have been rejected as depending from a canceled claim. Applicants have amended claims 26-29 to depend from claim 1.

Accordingly, Applicants request that the Examiner withdraw these 35 USC § 112 rejections.

#### *Provisional Double Patenting Rejection*

Claims 1-24, 26-29, 31-46, 99 and 100 have been provisionally rejected under the judicially created doctrine of non-obviousness-type double patenting as being unpatentable over claims 99-101 and 105-112 of copending application No. 09/494,282.

Applicants are submitting a Terminal Disclaimer with this response to obviate this rejection.

#### *Claim Objections*

Claim 39 has been objected to as containing a misspelling. Applicants have amended claim 39 to replace “homolgous” with “homologous.”

Claim 2 has been objected to as being of improper dependent form for failing to further limit the subject matter of claim 1. To expedite prosecution, Applicants have canceled claim 2.

Accordingly, Applicants request that the Examiner withdraw these objections.

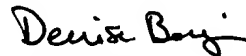
*Conclusion*

Applicants believe that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Applicants believe that no fee is required with this filing; however, if it is determined that fees are due, Applicants hereby authorize the Director to charge the required fees to Deposit Account No. 500388 (MXGP001X2).

Respectfully submitted,

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